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January 11, 2007

The Honorable Sue L. Robinson  
United States District Court  
844 King Street  
Wilmington, DE 19801

BY ELECTRONIC FILING

Re: Boston Scientific Corp. v. Conor Medsystems; C.A. No. 05-768 (SLR)

Dear Chief Judge Robinson:

Pursuant to the Court's request at the January 4, 2007 status conference, Conor submits this letter to present its positions on three issues that arose at the conference.

First, with respect to the scope of the § 271(e)(1) exemption, Conor relies on the following case law: *Merck KGaA v. Integra Lifesciences I, Ltd.*, 545 U.S. 193, 202-208 (2005); *Eli Lilly and Co. v. Medtronic, Inc.*, 496 U.S. 661 (1990); *AbTox, Inc. v. Exitron Corp.*, 122 F.3d 1019, 1029-30 (Fed. Cir. 1997); *Chartex Int'l PLC v. M.D. Pers. Prods. Corp.*, 1993 WL 3061695, at \*2-4 (Fed. Cir. 1993) (unpublished opinion); *Teletronics Pacing Sys., Inc. v. Ventrifex, Inc.*, 982 F.2d 1520, 1522-25 (Fed. Cir. 1992); *Nexell Therapeutics, Inc. v. AmCell Corp.*, 199 F. Supp. 2d 197, 203-05 (D. Del. 2002); *Bristol-Myers Squibb Co. v. Rhône-Poulenc Rorer, Inc.*, 2001 WL 1512597, at \*3-8 (S.D.N.Y. Nov. 28, 2001); *Amgen, Inc. v. Hoechst Marion Roussel, Inc.*, 3 F. Supp. 2d 104, 107-111 (D. Mass. 1998); *NeoRx Corp. v. Immunomedics, Inc.*, 877 F. Supp. 202, 205-214 (D.N.J. 1994); *Elan Transdermal Ltd. v. Cygnus Therapeutic Sys.*, 24 U.S.P.Q.2d 1926, 1931-33 (N.D. Cal. 1992). Conor never sent any stents to any foreign regulatory bodies.

Second, we have determined that Conor does not use cover letters to send stents to clinical investigators. Instead, Conor includes packing slips in those shipments. The burden of producing those packing slips, however, far outweighs their relevance. Copies of those packing slips are dispersed among at least 60 boxes of irrelevant records located in off-site archival storage, and among thousands of packing slips located in on-site storage. The information in those packing slips is redundant of information in documents Conor has already produced that include the identities of the clinical trials, and the locations, dates, and number of stents used in those trials.

Finally, although it does not believe they are relevant, in order to remove this from the issues before the Court, Conor will produce a 2006 update of the kinds of documents relating to Conor's distributors that Conor has already produced for 2005.

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Respectfully,

*/s/ Jack B. Blumenfeld*

Jack B. Blumenfeld (#1014)

JB/lnmc

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